

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

---

UNITED STATES OF AMERICA

v.

ROSS MCLELLAN,

Defendant.

---

)  
)  
)  
) Case No. 16-cr-10094-LTS-1  
)  
)  
)  
)

ORDER

November 15, 2017

SOROKIN, J.

The Motions for Leave to File Replies (Doc. Nos. 240 and 243) are ALLOWED. Henceforth, any moving party may file a reply without further permission of the Court provided that the reply does not exceed five pages and is filed within seven days of the opposition. The Court reminds the parties and non-parties that a twenty-page limit applies to all memoranda absent prior authorization of the Court, which in some instances the parties have failed to obtain (e.g., Doc. No. 173).

The July 13, 2017 Proposed Subpoena

Defendant McClellan filed an application to serve a subpoena on State Street Bank and Trust Company (“State Street”) on July 13, 2017. Doc. No. 201. In advance of filing this motion, he requested permission to redact (and thus proceed *ex parte* in part) the portion of his memorandum in support of the motion that addresses relevance and materiality so as not to reveal his trial strategy to the government or State Street, which has entered into a form of cooperation agreement with the government. Doc. No. 198. Magistrate Judge Bowler denied

McLellan's request to proceed partially *ex parte*. Doc. No. 207. McClellan filed a timely appeal (Doc. No. 215), State Street opposed (Doc. No. 217), and McClellan replied (Doc. No. 228).

After consideration of the issues raised by the appeal, the appeal (Doc. No. 215) is ALLOWED, Judge Bowler's order (Doc. No. 207) is VACATED, and the Motion to Partially Proceed *Ex Parte* (Doc. No. 198) is ALLOWED. McLellan shall file redacted copies of the two relevant memoranda (Doc. Nos. 201 and 216) and serve the subpoena. This ruling is without prejudice to any motion to quash. Any motion to quash shall be filed by November 22, 2017 with a response by December 4.

The Motion to Quash (Doc. No. 172) and the October 4, 2017 Subpoena

The Motion to Quash (Doc. No. 172) and related filings (Doc. Nos. 173, 188, 209, 238, and 245), along with the contested October 4, 2017 application for a Rule 17 subpoena (Doc. Nos. 229, 239, 240-1), remain under advisement.

The October 13, 2017 Subpoena Application

McLellan applied for issuance of a Rule 17 subpoena directed to State Street on October 13, 2017. Doc. No. 234-2. State Street indicated its intent to file a motion to quash the subpoena if ordered. Doc. No. 241. The government filed a partial opposition (Doc. No. 242-1), and McLellan replied (Doc. No. 243-1).

The government's partial opposition is OVERULED and the application (Doc. No. 234-2) is ALLOWED without prejudice to any a motion to quash by State Street. Any motion to quash shall be filed by November 22, 2017, and any response shall be filed by December 4, 2017.

Hearing

McLellan's Motion for Hearing (Doc. No. 221) is DENIED. However, the Court anticipates that it may hold one hearing regarding the motions that remain under advisement and the expected motions to quash.

SO ORDERED.

/s/ Leo T. Sorokin  
Leo T. Sorokin  
United States District Judge